



An
Bord
Pleanála

Inspector's Report ABP-300887-18

Development	The building of a single storey dwelling with small mezzanine space, attached carport & domestic shed, septic tank & percolation area to current EPA guidelines, recessed entrance (in lieu of existing field access) and all associated site works.
Location	Blakestown, Hollywood, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/4
Applicant(s)	Claire Burke
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Irena & Gerry Toomey
Observer(s)	None.
Date of Site Inspection	25 th June, 2018
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in the rural townland of Blakestown (Lower), Co. Wicklow, approximately 2.8km southeast of Ballymore Eustace and c. 500m south of the Poulaphouca Reservoir and hydro-electric power station, where it occupies a locally elevated position to the east of the N81 National Road with views over the lower-lying lands and the River Liffey Valley to the west / northwest. Whilst the surrounding landscape is primarily one of undulating rural countryside, there is a considerable concentration of one-off residential development located along several of the roadways in the wider area, including to the east / northeast of the site, which gives rise to localised instances where parts of the landscape have a somewhat more 'suburban' appearance. The site itself, as initially submitted to the Planning Authority, has a stated site area of 0.36 hectares, is irregular in shape, and presently comprises the easternmost corner of a larger agricultural field set as pasture. It adjoins 2 No. single storey bungalows to the immediate southeast and is bounded by mature hedgerow / ditches to the northeast and southeast whilst the remaining site boundaries are not physically defined at present. The site topography is characterised by a gradual fall on travelling north-westwards towards the N81 National Road with the adjacent lands to the southeast occupying a moderately more elevated position.

2.0 Proposed Development

2.1. The proposed development, as initially submitted to the Planning Authority, consists of the construction of a contemporarily designed, single-storey (with partial mezzanine) dwelling house based on an irregular building footprint with a stated floor area of 237m² and a maximum ridge height of 6.67m. The overall design is based on a contemporary interpretation of the traditional vernacular and has sought to evoke a clustering of structures reminiscent of a 'rural farmyard'. It comprises a number of distinct elements which aim to break the construction up into a series of identifiable components such as a principle cottage-style structure (incorporating a partial mezzanine / first floor level) that will provide the focal point from which the remainder of the dwelling house will extend. External finishes will include nap plaster, metal

cills, blue / black roof tiles / slates, zinc-coated metal finish roofing, and selected timber cladding.

- 2.2. Access to the site will be obtained directly from the adjacent public road to the immediate northeast via a new entrance arrangement located in the easternmost corner of the site in a position comparable to that of an existing agricultural field gate. It is also proposed to install a septic tank system which will discharge to a percolation area and to connect to a ground water scheme.
- 2.3. In response to a request for further information, amended proposals were subsequently submitted whereby the design of the proposed dwelling house was revised with the omission of the car port area, the extension of the utility space, and the alteration of the shed structure. In addition, the overall site layout was amended with the proposed dwelling house being repositioned further southeast whilst a new site entrance arrangement was also provided onto a different public road to the south. It was also proposed to replace the septic tank system with a secondary treatment unit discharging to a soil polishing filter.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of responses to requests for further information and subsequent clarification, on 12th January, 2018 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 14 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, external finishes, landscaping, archaeological monitoring, entrance details, wastewater treatment, and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report details the site context, including the applicable policy considerations, and subsequently states that the provisions of Objective HD23 of the Development Plan are applicable in this instance given the site location in a rural area. The report proceeds to consider the submitted particulars as regards the

applicant's compliance with the relevant rural housing eligibility criteria and concludes that whilst she would appear to be '*a permanent native resident of the rural area of Blakestown*' further information is required in respect of her housing need in light of her ownership of a residential property in Naas town.

With regard to the overall design of the proposed development, the report acknowledges that the siting / clustering of the proposed dwelling house relative to adjacent housing / structures will mitigate its visual impact, however, it raises concerns as regards the exposed and elevated nature of the site when viewed from the N81 National Road. The report thus recommends that the applicant should be required to further investigate the potential visual impact of the proposed development in order to establish if it can be satisfactorily assimilated into the surrounding landscape. In respect of the specific design of the proposed dwelling house, the report states that it generally accords with the guidelines issued by Wicklow County Council, save for the use of timber cladding as an external finish which is deemed inappropriate to a rural area.

In terms of traffic considerations, the proposal to upgrade an existing agricultural access to serve the site is considered acceptable in principle, although further details would be required in order to demonstrate that adequate sightlines can be achieved from same without necessitating the carrying out of works on lands outside of the applicant's control.

By way of other matters, the report also references a submission made by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs and recommends that an Archaeological Impact Assessment should be sought by way of further information given the proximity of the proposal to a Recorded Monument (W1009-039: '*Flat cemetery*'). It is further stated that the proposed development will not give rise to any adverse impacts on the qualifying interests and conservation objectives of any Natura 2000 sites and that it is not necessary to undertake an Appropriate Assessment pursuant to Article 6(3) of the EU Habitats Directive.

The report subsequently concludes by recommending that further information should be sought in respect of visual impact, housing need, sightlines and archaeological considerations.

Following consideration of the applicant's response to a request for further information, a further report was prepared which reiterated the case planner's previous concerns as regards the visual impact of the proposed development (in addition to referencing the potential availability of alternative sites elsewhere on the landholding). With regard to the applicant's housing circumstances, this report states that the additional details provided by way of further information have satisfactorily demonstrated that the applicant has a need for a new dwelling house in this rural area. In respect of the revised access arrangements, the report expresses reservations as regards the extent of the driveway proposed and also notes that the amended site layout plan has not detailed the available sight distance. In relation to potential archaeological implications, the report notes that whilst the development has been revised in response to the findings of the archaeological impact assessment, concerns remain as regards the possible impact on unknown features on site. It was further suggested that, in view of the foregoing, the development of the subject site was unnecessary, particularly in light of the availability of alternative sites elsewhere on the landholding. Therefore, the report concluded by recommending that permission be refused on several grounds, including visual impact, archaeological concerns, and traffic safety, however, the Director of Services subsequently instructed that clarification of further information be sought in order to address the visual impact of the proposal and the concerns regarding the proposed access arrangements.

Following consideration of the applicant's response to the request for clarification of further information, a final report was prepared which recommended a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Roads Design Office: An initial report indicated that the available sightlines were acceptable given the low ambient speeds along the roadway, although it was also recommended that a condition be included in any decision to grant permission requiring the clearance of low-lying vegetation to the satisfaction of the Municipal District Engineer in order to improve the available sight distance, particularly along the eastern approach to the site (from Valleymount).

Following the receipt of a response to a request for further information, a further report was prepared which noted that the earlier concerns of the Roads Design Office with regard to the proposed site access arrangements had been largely addressed following the relocation of the site entrance to what appears to be a local tertiary road. However, the report proceeded to raise concerns as regards the overall visibility of the proposed development when viewed from the N81 National Road, although it is subsequently stated that there is no objection to the proposal in principle by reference to the applicant's response to the request for further information

Upon the receipt of a response to a request for clarification of further information, a final report was compiled which continued to express reservations as regards the visual impact of the proposal when viewed from the N81 National Road, particularly in light of the limited level of detail provided in the landscaping plans, although it was suggested that permission could be granted subject to conditions. With regard to the discussion of an alternative site access from the L8861 Local Secondary Road (as opposed to Local Road No. L8361), it was submitted that Local Road No. L8361 is the better location for the proposed site entrance given the lower traffic speeds and the lesser need for the removal of hedgerow.

Baltinglass Municipal District: No objection, although it is recommended that the front roadside boundary should be set back to provide sightlines of 80m in both directions.

Dublin City Council: States that there is no objection to the proposed development from the point of view of minimising pollution threats to the Poulaphouca Reservoir, subject to conditions.

Environmental Health Officer: No objection, subject to conditions.

Blessington Area Engineer: No objection, subject to the provision of the revised entrance layout as detailed in Drg. No. 16-15-P01B received by the Planning Authority on 17th December, 2017.

3.3. Prescribed Bodies

- 3.3.1. *Transport Infrastructure Ireland:* States that it will rely on the Planning Authority to abide by official policy in relation to development on / affecting national roads, as outlined in the DoECLG's '*Spatial Planning and National Roads, Guidelines for*

Planning Authorities, 2012'. It was also submitted that the Planning Authority should ensure the following:

- Protect the substantial investment being made by Government in upgrading national roads.
- Maintain the intended transport function, traffic carrying capacity and efficiency of the network of national roads.
- Ensure that traffic hazards for road users are not created and thereby maintain the safety of the network of national roads.
- Extend the service life of the national road network, thereby deferring to the longer term the need to reinvest in further road improvements and the construction of new roads which would have implications for landowners, local communities, the environment and public expenditure.
- Protect the routes of future roads, including road upgrades, from development.

3.3.2. *Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs*: States that the proposed development site is partially located within the confines of Recorded Monument Ref. No. WI009-039 which is described as a flat cemetery consisting of three stone lined cists discovered and excavated in 1980 and a further 6 No. cists (at least) discovered during further groundworks carried out in 2013. It is subsequently stated that there is a possibility that archaeological remains associated with this flat cemetery may be located within the proposed development area.

The report proceeds to suggest that it would be preferable if the applicant were advised to select an alternative location (if possible) as it is likely that development in the area proposed could significantly impact on the archaeological resource and set a precedent for further development in this archaeologically sensitive area.

Alternatively, it is recommended that an Archaeological Impact Assessment should be undertaken pursuant to a request for further information in order to assess the potential impact, if any, of the proposal on archaeological remains in the proposed development area.

This report concludes by stating that a final decision on the application should not be made until the Planning Authority and the Department have had the opportunity of evaluating the Archaeological Assessment.

- 3.3.3. *Department of Culture, Heritage and the Gaeltacht:* An initial report reiterated that the proposed development site is partially located within the confines of Recorded Monument Ref. No. WI009-039 and also noted that further extensive archaeological remains, including two possible enclosures associated with the medieval settlement, had recently been discovered within the proposed development area (17R0084) & 17E0174). In reference to the Archaeological Impact Assessment submitted in response to the request for further information issued by the Planning Authority, it was noted that archaeological remains were confirmed within eight of the twelve test trenches and that the AIA concluded the following:

'It is clear that the early medieval settlement, now known to be located in both Blakestown Lower and Britonstown, was a significant site. The main enclosure may have been defined by double-ditches and contained a cemetery. It measures c. 150m southwest-northeast by 90m southeast-northwest and evidence from this investigation now indicates that the landscape outside of the enclosure was utilised for paddocks and industry.'

It was also noted that the Archaeological Impact Assessment identified various significant archaeological remains within the proposed development site, including two curvilinear features that possibly represent the outline of the enclosing ditches associated with the medieval settlement. Furthermore, whilst no archaeological features were identified in the 4 No. test trenches excavated within the footprint of the proposed dwelling, it was considered highly likely that archaeological remains may survive in areas not previously tested within the confines of the site.

Reference is also made to the recommendation by the consultant archaeologist that the proposed dwelling house and the associated percolation area should be relocated within the site in order to avoid the identified archaeological features and that archaeological monitoring of groundworks should be undertaken to ensure the recording of any further features uncovered during development works. It was also noted that the revised site layout, which shows the proposed dwelling set back c.

7.9m from its original position to avoid identified archaeological features, was included in the AIA report.

This submission concludes by recommending the inclusion of a condition in any decision to grant permission whereby the applicant will be required to submit a revised site layout plan to the Planning Authority and the Department, in advance of site preparation and construction works, detailing an amended repositioning of the proposed dwelling house and the associated groundworks (i.e. the access road, septic tank & percolation area) in accordance with the recommendations outlined in the Archaeological Impact Assessment. This condition should also specify that the area located to the northwest of the proposed dwelling house (where significant below ground archaeological remains have been identified) is to be maintained as open grassland / lawn with no deep-rooted planting or groundworks to be undertaken within same whilst all topsoil stripping and ground works within the development area are to be subject to archaeological monitoring.

Following the receipt of a response to a request for clarification of further information, a further report was prepared which stated that the proposed repositioning of the dwelling house as shown on Drg. No. 16-15-P01B was acceptable and that the potential impact on archaeological remains in this revised position had been assessed in the Archaeological Impact Assessment submitted by way of further information. In this regard it was noted that the Department concurred with the archaeological mitigation measures outlined in the archaeological report. It was also stated that the positioning of the entrance / access along the eastern site boundary was considered to be preferable as it would further reduce any potential impact on subsurface archaeological remains within the north-western and western extent of the site area.

However, the Department subsequently raised concerns as regards the potential archaeological impact of the landscaping and planting proposals detailed in Drg. No. 16-15-P50 (as received by the Planning Authority on 17th December, 2017). It proceeded to state that whilst there may be visual amenity concerns, it is imperative that archaeological remains be preserved *in situ* below ground within the archaeologically sensitive areas of the site and thus the landscaping proposals should be reviewed accordingly in consultation with the archaeological consultant.

This final report concluded by recommending the inclusion of a condition requiring the submission of a revised site layout plan, detailing the agreed repositioning of the proposed dwelling house and the associated groundworks (i.e. the access road, septic tank & percolation area) in accordance with the recommendations outlined in the Archaeological Impact Assessment, to the Planning Authority and the Department for agreement in advance of site preparation and construction works. It further stated that the area to the northwest of the proposed dwelling should be maintained as open grassland / lawn / wildflower meadow with minimal planting and that a revised landscaping plan, accompanied by an archaeological impact statement, be submitted for agreement in advance of the site works. In addition, all topsoil stripping and ground works within the development area should be subjected to archaeological monitoring.

3.4. Third Party Observations

3.4.1. A single submission was received from the appellant and the principle grounds of objection / areas of concern contained therein can be summarised as follows:

- The siting of the proposed entrance arrangement is inappropriate and will require the removal of a substantial extent of the objector's boundary fencing and hedgerow in order to achieve the required sightlines. No consent has been given to the applicant to undertake any such works on the objector's lands.
- There are traffic safety concerns associated with the proposal as it will be necessary to relocate the proposed entrance further northwest in order to achieve the required sightlines which will result in the access being situated too close to the junction with the N81 National Road.
- Notwithstanding the road improvement works previously undertaken by the Local Authority, there are on-going traffic safety concerns with regard to the alignment of the local road network and excessive traffic speeds in the area. It is considered that the additional traffic turning movements consequent on the proposed development would serve to exacerbate these concerns.

- The existing entrances serving the objector's property have not been detailed on the submitted drawings and could impact on the operation of the proposed entrance arrangement.
- The proposed site entrance could impact on the traffic safety of the objector's existing access arrangements.
- The proposed development will be visually obtrusive due to its elevated and prominent location relative to the N81 National Road.
- Consideration should be given to an alternative location to the south of the applicant's father's dwelling house.
- It would be preferable if the proposed development would not impact on the views available from the objector's property.
- Due to the height of the proposed dwelling house, it cannot be considered to be 'single storey'.
- The applicant is the owner-occupier of a dwelling house in Naas, Co. Kildare, which is situated closer to her place of employment.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 905713. Was granted on 5th June, 1990 permitting Mr. William Gobbett permission for the retention of a dwelling, septic tank, stables and hayshed at Poulaphouca, Ballymore Eustace, Co. Wicklow.

PA Ref. No. 071835. Was granted on 23rd November, 2007 permitting Anthea Middleton permission for a one and half storey farm style house, upgrade / improve existing vehicular access from Mary's Road, septic tank and percolation area to EPA

recommendations and all ancillary works, at Mary's Road, Brittonstown, Hollywood, Co. Wicklow.

4.4. Other Relevant Files:

PA Ref. No. 17/190 / ABP Ref. No. PL27.249099. Was refused on appeal on 30th November, 2017 refusing Alun Owens permission for the construction of a part single, part two-storey, three-bedroom dwelling; provision of new wastewater treatment system; and all associated ancillary works necessary to facilitate the development, with access via an existing vehicular entrance on the local road, all at Easthill Farm, Easthill, Newtownmountkennedy, Co. Wicklow, for the following reasons:

- The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. and in an area where housing is restricted to persons demonstrating social and economic local need in accordance with the Wicklow County Development Plan 2016-2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based social and economic need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the “Sustainable Rural Housing Guidelines for Planning Authorities” and to the proper planning and sustainable development of the area.
- Having regard to the small size of the farming plot, compounded by the subsequent significant reduction in the area left for farming purposes after the omission of the site for the proposed house, it is considered that the proposed development, by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the balanced, orderly development of rural areas in the vicinity of Newtownmountkennedy and

would, therefore constitute development which would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. The ‘*Sustainable Rural Housing, Guidelines for Planning Authorities*’, 2005 promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an ‘*Area under Strong Urban Influence*’ as indicatively identified by the Guidelines.

5.2. Development Plan

5.2.1. **Wicklow County Development Plan, 2016-2022:**

Chapter 3: Settlement Strategy:

Level 10: The Rural Area:

Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount important and as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected.

Chapter 4: Housing:

Section 4.3: *Key Housing Principles:*

Section 4.3.5: *Rural Housing:*

As set out in Chapter 3 of this plan, rural housing in County Wicklow requires to be managed, to protect the County’s pristine landscapes and natural resources, to avoid urban generated rural housing and to ensure the needs of those with a bona fide necessity to live in the rural area are facilitated.

Section 4.4: *Housing Objectives:*

HD1: New housing development shall be required to locate on suitably zoned or designated land in settlements, and will only be considered in the open countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside.

HD3: All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.

HD20: Urban generated housing shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed suitable to absorb an element of urban generated development (see objective HD19).

HD23: Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.

Residential development will be considered in the countryside in the following circumstances:

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of levels 8 and 9), or resided in the rural area for at least 10 years in total prior to the application for planning permission.
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.

3. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.
4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling were it is considered appropriate and subject to the proper planning and development of the area.
5. A person whose principal occupation is in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
6. An immediate family member (i.e. son or daughter) of a person described in 5, who is occupied in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
7. A person whose principal occupation is in a rural resource based activity (i.e. agriculture, forestry, mariculture, agri-tourism etc.) can demonstrate a need to live in a rural area in order to carry out their occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement.
8. A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and not for speculation and who can demonstrate a definable social and / or economic need to live in the area to which the proposal relates.

9. The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership as at 11th October 2004 for at least 10 years prior to the application for planning permission and not as speculation.
10. An emigrant who qualifies as a permanent native resident, returning to a rural area in County Wicklow, seeking to build a house for his/her own use not as speculation.
11. Persons whose work is intrinsically linked to the rural area and who can prove a definable social or economic need to live in the rural area.
12. A permanent native resident that previously owned a home and is no longer in possession of that home (for example their previous home having been disposed of following legal separation / divorce / repossession, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration) and can demonstrate a social or economic need for a new home in the rural area.
13. Permanent native residents of moderate and small growth towns, seeking to build a house in their native town or village within the 60kph / 40mph speed limit on the non-national radial roads, for their own use and not as speculation as of 11th October 2004.
14. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time.
15. Permanent native residents of the rural area who require a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs.

16. Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village.

In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy HD23 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard.

With regard to the preservation of views and prospects, due consideration shall be given to those listed within the area of the National Park; and with respect to all other areas, to generally regard the amenity matters, but not to the exclusion of social and economic matters. The protection and conservation of views and prospects should not give rise to the prohibition of development, but development should be designed and located to minimise impact.

HD24: Where permission is granted for a single rural house, the applicant will be required to lodge with the Land Registry a burden on the property, in the form of a Section 47 agreement, restricting the use of the dwelling for a period of 7 years to the applicant, or to those persons who fulfil the criteria set out in Objective HD23 or to other such persons as the Planning Authority may agree to in writing.

Chapter 10: Heritage:

Section 10.3: *Natural Heritage and Landscape:*

Section 10.3.9: *Wicklow's Landscape:*

NH49: All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of this plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

NH51: To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts.

Section 10.3.10: *Views and Prospects:*

NH52: To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

N.B. The proposed development site is located to the east of View No. 32: 'N81 Poulaphuca, south of Blessington View of River Liffey Ballymore Eustace Reservoir'.

Appendix 2: Wicklow County Council: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow.

Appendix 5: Landscape Assessment:

Section 4.5: *Wicklow's Landscape Areas:*

Section 4.5.4: *Corridor Area: 4(b) - The N81:*

This landscape area covers the main access corridor along the west of the County. The boundary of the western corridor generally follows what is considered to be the area upon which the greatest influence is exerted by this secondary access route. This route, for the most part, runs through the more low lying and accessible tracts of land, providing expansive views of the Wicklow Mountain Range, intermittent views of the Blessington lakes, south of Blessington, with its primary function being the connection between the towns of Blessington and Baltinglass in the west of the County.

Section 5: *Policy Provision:*

Section 5.3.1: *General Development Considerations (GDC)*

Section 5.3.14: *Corridor Area KDC (see Appendix 4 Map 10.13(d))*:

1. To protect views and prospects from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.
2. Development proposals within this area should aim to locate within existing clusters of structures / tree stands and avoid locating new development in open fields.

N.B. The proposed development site is located within the ‘*Corridor Area West (N81)*’ landscape category as detailed in Figure 4.11: ‘*The Landscape Category Map*’ and Map 10.13(d) of the Landscape Assessment.

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Poulaphouca Reservoir Special Protection Area (Site Code: 004063), approximately 500m northeast of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 6.7km southeast of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 6.7km southeast of the site.
- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 12km south-southwest of the site.
- The Red Bog, Kildare Special Area of Conservation (Site Code: 000397), approximately 9.3km north-northeast of the site.

N.B. This list is not intended to be exhaustive as there are a notable number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant does not have an economic need to reside at the subject site on the basis that she is the registered owner of a residential property in Naas which is located closer to her place of employment (and that of her husband).
- Whilst the eligibility criteria set out in the Wicklow County Development Plan, 2016 afford permanent native residents (who have resided in a rural area in Co. Wicklow for at least 10 No. years) the opportunity to construct a dwelling house in a rural area, that provision does not accord with Circular Letter PL2/2017: *'Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans'* (as issued by the Department of Housing, Planning, Community and Local Government on 31st May, 2017) which references an infringement notice originally issued by the European Commission against Ireland in 2007 as regards the 'local needs criteria' contained in the 2005 Guidelines and the policy objectives subsequently incorporated into local authority development plans that persons wishing to apply for planning permission for a house in a rural area should fulfil a prior minimum residency requirement or have familial ties to that rural area. In effect, the Circular brings into question the appropriateness of seeking a minimum residency requirement or familial ties in the assessment of applications for rural housing given that such provisions create barriers for non-locals in the purchasing of property (in reference to the Flemish Decree case wherein the ECJ ruled that there had been an unjustified restriction on fundamental freedoms under the Treaty on the Functioning of the European Union, in particular, that it breached Article 43 of the EU Treaty on the freedom of movement of citizens).

Whilst it is considered acceptable for an applicant to have occupational or employment related ties to a specific rural area, the proposed development site is located further away from the applicant's place of employment than her current place of residence. Therefore, the subject proposal would not accord with Circular PL2/2017 and is entirely unjustifiable.

- By way of precedent, the Board is referred to its previous determination of ABP Ref. No. PL27.249099 wherein permission was refused on the basis that the applicant in question did not come within the scope of the housing need criteria set out in the '*Sustainable Rural Guidelines*' or the Development Plan. Moreover, the Board noted that whilst the applicant was a native resident of the rural area in question, this did not provide a reason to construct a dwelling house at the location proposed.

Circular PL2/2017 clearly suggests that in instances where an applicant is not part of a rural area and has no familial ties to same is refused permission for a dwelling, this would amount to an unjustified restriction on the fundamental freedoms provided for under the EU Treaty. Furthermore, whilst occupational or employment related ties to a rural area may be considered acceptable, the applicant has not demonstrated any such connection to the area in question.

- The applicant has not demonstrated an adequate social or economic need to reside at the application site. Therefore, in the absence of any locally-based social and economic need for the proposed dwelling house, the proposal would contribute to the encroachment of random rural development in the area.
- In its initial assessment of the amended entrance proposals submitted in response to the request for further information, the Planning Authority raised concerns with regard to the extent of driveway which would pass to the side and rear of the adjacent dwelling house and the applicant's failure to demonstrate the adequacy of the available sightlines. It would also appear that the revised site plan submitted in response to the subsequent request for clarification of further information detailed remarkably similar access proposals and, therefore, the Planning Authority's assessment of same should be questioned.
- The extent of hard surfacing associated with the proposed access arrangements (as amended) will have a detrimental impact on the sensitive nature of the surrounding area and will create a barrier to the free movement of species.

- The amended access proposals will result in 2 No. vehicular entrances being positioned side-by-side along a very narrow section of roadway which could give rise to traffic safety concerns.
- Due to the alignment of the carriageway and the obstruction posed by the hedgerows on the opposite side of the roadway, it is submitted that the sightlines shown in the applicant's response to the request for clarification of further information are not available from the revised site entrance location.
- The proposed development site is located within a highly vulnerable landscape by reference to the Landscape Classification Map contained in the County Development Plan. In this respect it is submitted that the proposed dwelling house will be highly visible from the surrounding area, with particular reference to vantage points along the N81 National Road, given the prominent and elevated nature of the application site.
- The subject site is located in a highly sensitive area and is also situated in close proximity to the Poulaphouca Reservoir Special Protection Area and proposed Natural Heritage Area.
- The description of the proposed dwelling house as 'single storey' is misleading given that the overall height and appearance of the proposal is of a two-storey construction.
- The proposed development will have a significant impact on views available from within the surrounding landscape. The two-storey design of the proposed dwelling is also considered to be inappropriate given the elevated nature of the site.
- The proposal represents an inappropriately scaled development that will have an undue impact on the visual amenities of the surrounding area.
- Having regard to the submissions received from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, in addition to the Archaeological Impact Assessment provided in response to the request for further information, it is clear that there are significant archaeological remains present on site.

- Whilst the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs has suggested that the applicant should consider an alternative location for development, it is submitted that the applicant's current residency arrangement in Naas obviates any need to relocate to a rural part of Co. Wicklow.
- The applicant's current place of residence would appear to be suitable as a family home.
- The application site is located within the '*Hinterland*' identified in the Regional Planning Guidelines for the Greater Dublin Area and, therefore, cognisance should be taken of the following:

'The GDA contains large tracts of both valuable agricultural lands and amenity lands which have significant value, both as important agricultural enterprise, food sources or nature reserves and also as green belts between towns and the built up metropolitan area. These key resources should be carefully managed to ensure that their primary use (be it as farms, studs, forestry, leisure or natural areas) is protected from encroachment, fragmentation and urban driven development'.

- The submitted drawings do not provide for an accurate representation of the surrounding area e.g. the 2 No. entrances serving the appellant's property have not been identified.

6.2. Applicant's Response

- The issues raised in the grounds of appeal are without foundation, factually incorrect, and very misleading.
- It should be noted that the grounds of appeal have strayed from the contents of the appellants' original submission (which principally related to items of design and detail) as they have now sought to challenge the *bona fides* of the applicant in terms of her housing need (contrary to the appellants' earlier stated position whereby they did not wish to prevent the applicant from building a house of her family lands).

- Contrary to the appellants' claims, it is clear that the applicant's rural housing need is both social and economic. She was born in the area and lived in the family home at Blakestown for most of her life. She is from a farming background and is also an active member of the local community.
- The applicant satisfies the eligibility criteria set out in the Development Plan in that she has a socially-driven rural-generated housing need which is related to her need to provide support for her elderly parents, to provide assistance on the family farm, and to provide care for her sister who suffers from ill health. Furthermore, the proposal complies with the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' which states that '*people who are part of the rural community should be facilitated by the planning system in all rural areas, including those under strong urban-based pressures*'.
- The applicant purchased her current place of residence in Naas as a starter home in 2008, however, that property is not suitable as a family home nor is it extendable (please refer to the accompanying 'Architect's Feasibility Report').
- With regard to the appellants' reference to Circular Letter PL2/2017, it should be noted that the circular states that the findings of the European Court of Justice in relation to the Flemish case require further analysis and that the policies and objectives developed pursuant to the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' remain the '*de facto*' position until revised guidance is issued under Section 28 of the Planning and Development Act, 2000, as amended. It is not open to the appellants to construe a separate meaning to the circular.
- The reference to ABP Ref. No. PL27.249099 is of no relevance to the subject proposal. In that instance the applicant was attempting to claim a rural housing need on the basis of a desire to reside adjacent to a 'micro' farming enterprise, however, both the reporting inspector and the Board raised concerns as to the viability of the proposed agricultural enterprise and the need for the applicant to reside beside same. The circumstances of the subject application are materially different to ABP Ref. No. PL27.249099 as the applicant's housing need is directly related to her need to reside adjacent

to the family home so that she can care for her elderly parents and sister as well as assisting with duties on the farm.

- Due to the applicant's work / employment commitments and her family responsibilities (both as a carer for her sister who resides with her parents in the family home in Blakestown and in providing assistance to her elderly parents in the running of the family farm), it is submitted that her current commuting / travel patterns are unsustainable and that the construction of a new dwelling house on the family farm would serve to significantly alleviate same.
- The subject proposal will not give rise to an 'undesirable precedent' for further development on the landholding in light of the current living arrangements of the applicant's other family members.
- It is considered that the public notices adequately describe the proposed development whilst the expression 'small mezzanine space' simply refers to a small section of the house which will include an upper floor level. Moreover, the application has been validated and assessed by the Planning Authority with no contradiction or rejection of the development description contained in the public notices.
- The proposed development will not be visible from any protected views with only limited visibility of same available from the surrounding area. In this regard it should be noted that the Local Authority previously undertook extensive hedgerow removal at the N81 / L8861 road junction in the interests of traffic safety which served to expose the immediate landscape over a short stretch of the N81 National Road. However, whilst the proposed development will be visible from the N81 National Road, it will be viewed in the context of an existing cluster of rural housing and thus will not have a significant visual impact.
- The extent of driveway proposed is not excessive, particularly as the land being altered (intensively farmed agricultural grassland) is of low biodiversity value.

- The sightlines available from the revised entrance arrangements are adequate (as detailed on DRG. No. 16-15-P01B) and the Board is referred to the accompanying 'Sightline Study' in this regard.
- The siting of the proposed access arrangement adjacent to an existing entrance will not give rise to traffic hazard as evidenced in the assessment of the Roads Department of the Local Authority.
- There will be no threat to the Poulaphouca Reservoir Special Protection Area or the proposed Natural Heritage Area as the proposed development is not hydraulically connected to same. Moreover, Dublin City Council has not objected to the proposed development as it does not pose a threat to the 'raw water' of the reservoir.
- Having regard to the 'source-pathway-receptor' model of risk assessment it can be determined that the proposed development will not have any impact on the qualifying interests of the Poulaphouca Reservoir Special Protection Area.
- The subject site is located adjacent to (not within) Recorded Monument Ref. No. W1009-039 whilst a full archaeological assessment was undertaken by a licensed archaeologist and approved by the Department of Culture, Heritage and the Gaeltacht.
- Contrary to the appellants' claims, the Department of Culture, Heritage and the Gaeltacht has not sought a refusal of permission but has rather recommended that monitoring be undertaken during construction.
- Based on the recommendations of the Archaeological Impact Assessment, the proposed development was reduced in size and relocated eastwards so that the entire footprint of the construction is outside the identified '*area for potential archaeology*'. Further revisions included the repositioning of the wastewater treatment system.
- With regard to the accuracy of the submitted drawings, it should be noted that the site plans etc. are based on OSI mapping which does not show the 2 No. entrances to the appellants' property (this is commonplace where existing

entrances are not recessed). Other than the survey detail of the application site, other entrances are shown on the basis of the OSI data available.

- The siting, scale and design of the proposed dwelling house accords with the principles of the *'Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow'* appended to the County Development Plan. It follows the typology of a contemporary interpretation of a *'Stepped & Lofted Cottage'* linked to *'converted outbuildings'* with the link being low key and modern with a simple palette of detailing / finishes and minimal overhangs and verges.
- The subject proposal has been 'clustered' with other rural development in line with the County Development Plan.
- The site entrance (as amended) is favourably located on the convex side of a slight bend in the roadway where a maximum of only 8m of roadside hedgerow will have to be removed (as detailed on Drg. No. 16-15-P01C).
- The planting scheme to be undertaken as part of the proposed development will improve biodiversity in the area through the introduction of native hedging and by providing a corridor for wildlife.
- Contrary to the appellants' assertion that the proposed development site is located within the 'Poulaphouca Reservoir (2-AONB)' Landscape Character Area, it can be confirmed that the site is located within the 'Corridor Area West' Landscape Character Area and, therefore, the appellants' comments with regard to the sensitivity of the surrounding landscape are misplaced.
- The subject proposal accords with the landscape objectives and key development considerations set out in Section 5.3.14: 'Corridor Area KDC' of Appendix 5 of the County Development Plan as it will not impact on any views listed for preservation / protection in the Plan and has been clustered within other developments in the area.
- The location of the selected site is well considered for the following reasons:
 - It is situated in the corner of a field.
 - It is located adjacent to an existing cluster of houses.
 - The site is adjacent to mature planting to the north and east.

- It is not located on the most elevated part of the landholding.
- A Visual Impact Assessment was submitted in response to the request for further information and it has been held by the Planning Authority that the proposed development will not have a significant visual impact.

6.3. **Planning Authority's Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

6.5.1. Response of Appellants to the Circulation of the Applicant's Submission:

- It is apparent from Circular PL2/2017 that it is the intention of the Department of Housing, Planning, Community and Local Government to revise its policy position in response to the concerns expressed by the European Commission. In this regard the EC has directed that the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' should be updated to effectively remove the requirement for family ties as a qualification for a rural dwelling house as such a provision is considered to be discriminatory towards non-locals. Any such change would mean that a familial or social link to a particular rural area would no longer be deemed sufficient, notwithstanding if the applicant is a local resident. Instead, an applicant will be required to demonstrate why they need to live in an area i.e. occupation, employment etc. In this respect it is submitted that the subject application does not satisfy the aforementioned requirements.
- Whilst it is acknowledged that Circular PL2/2017 states that the current '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' remain in place, the Board is requested to take cognisance of the upcoming changes to the rural housing policy.

- It is reiterated that regard should be had to the Board's previous determination of ABP Ref. No. PL27.249099.
- The applicant has indicated that she is applying for permission due to her '*socially-driven rural housing need*' i.e. permission has not been sought on the basis of any economic need.
- Although it is accepted that the proposed development will be located within the 'Western Corridor' Landscape Character Area, it is considered that the site is nevertheless situated in a visually sensitive area.
- In its assessment of the subject application, the Planning Authority raised concerns with regard to the visibility of the proposed development from the N81 National Road. Considering the elevated nature of the site and the revised location of the vehicular entrance with its associated driveway, it is submitted that the proposed development will have a negative impact on the surrounding area.
- The appellants dispute the severity of the health issues affecting the applicant's parents whilst it should also be noted that her sister functions as an independent adult who is not incapacitated and drives her own car.
- The applicant's current residence in Naas already provides her with sufficient accessibility to her place of employment and her family home. Furthermore, this dwelling house would appear to be able to cater for a family.
- The proposed dwelling house will detract from the amenity of the surrounding area, including the appellant's property.
- Having regard to the extent of the applicant's father's farmholding, the applicant will have to drive to manage and maintain same thereby further promoting unsustainable travel patterns.
- The applicant excluded critical information from her initial planning application, including details of her current place of residence in Naas.
- The bridge at Poulaphouca on the N81 National Road is located less than 500m northwest of the application site and is presently restricted to a single lane of traffic with no indication of when road works will commence or are likely to be completed. Large construction vehicles accessing the subject site

may need to cross this bridge thereby increasing the traffic hazard at this location.

- The subject proposal represents an inappropriately scaled development that will have an undue visual impact on the amenity of the surrounding area.
- The applicant has not demonstrated a sufficient need to reside at the subject site whilst she has also claimed permanent native residency and familial ties to this rural area despite the fact that she lives in Naas town.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Archaeological implications
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development / Rural Housing Policy:**

7.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy it is of relevance in the first instance to note that the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005' and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2016. The Guidelines also state that such areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Naas & South Dublin) and will generally be under considerable

pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing same (e.g. the N81 National Road). Notably, within these '*areas under urban influence*', the National Planning Framework (*'Project Ireland 2040: Building Ireland's Future'*) states that it will be necessary for applicants to demonstrate '*a functional economic or social requirement for housing need*' (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements) whilst the Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

7.2.2. Whilst the Wicklow County Development Plan, 2016 does not provide for any further detailed identification of other rural area types at a county level in accordance with the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*', and although this omission is regrettable and is perhaps related to the specific circumstances of the county given its proximity to Dublin City, having conducted a site inspection, I am satisfied that the proposed development site is located within an '*Area under Strong Urban Influence*' given the prevalence of housing in the area and the site location relative to the urban centres of Naas and South Dublin in addition to the N81 National Road.

7.2.3. Section 4.3.5: '*Rural Housing*' of the County Development Plan emphasises the need to avoid urban-generated rural housing and to facilitate those who have a '*bona fide*' need to live in a rural area. In this respect I would refer the Board to Objective HD23 which states that residential development will only be considered in the open countryside when it is intended for use by persons with a '*definable social or economic need*' by reference to one of 16 No. qualifying criteria. Having reviewed the available information, whilst I am generally satisfied that the applicant has demonstrated that she complies with the eligibility criteria set out in Parts 1 & 2 of Objective HD23 in that she is acquiring the subject site from her parents and as she previously resided in this rural area (within the adjacent family home) for in excess of 10 No. years as evidenced by the supporting documentation which has accompanied

the application, some of the submitted correspondence gives rise to conflicting details as regards her later residency arrangements. For example, there is documentation on file which implies that the applicant has resided relatively recently within the family home at Blakestown despite her subsequent acknowledgement that she has resided at an address in Naas town since c. 2008. Nevertheless, on balance, I am amenable to accepting the applicant's connection to this rural area on the basis of the information available and I note that further support is lent to her application by reference to her desire to provide ongoing care and assistance to her elderly parents and her ill sister as well as her part-time involvement in the family farm.

- 7.2.4. In addition to the foregoing, I would suggest that it is appropriate to have regard to the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' which state that in facilitating housing intended to meet rural-generated needs eligible persons can include those working full-time or part-time in rural areas or persons who are an 'intrinsic part of the rural community' which are defined as follows:

'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence.'

N.B. For the purposes of clarity, and in reference to the grounds of appeal, I would advise the Board that Circular letter PL 2/2017: '*Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans*' clearly states that the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' remain in place and thus form the current 'default' position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department.

- 7.2.5. Whilst I would accept that the applicant would appear to have previously spent a substantial period of her life residing in this rural area and thus could be considered to form an *'intrinsic part of the rural community'*, it is of relevance to note that the Guidelines aim to facilitate persons who building their *'first homes'*. In this regard I would have reservations that as the applicant owns her current place of residence in Naas town she is not developing her *'first home'* and does not have a *'housing need'*. By way of further consideration, it is appropriate to consider whether the applicant's housing need is 'urban' or 'rural' generated and in this respect it is of relevance to note that her principle place of employment is in Naas town and thus it would seem reasonable to suggest that the subject proposal would give rise to a notable daily commuting distance, although I would accept that this is countered somewhat by her role in assisting her wider family circle.
- 7.2.6. Therefore, on the basis of the foregoing, whilst the applicant would appear to satisfy the eligibility criteria set out in Objective No. HD 23 of the Wicklow County Development Plan, in my opinion, she does not have a sufficient *'definable social or economic need'* which would warrant the development of a further dwelling house in this *'area under strong urban influence'* as defined by the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'*.

7.3. **Overall Design / Visual Impact:**

- 7.3.1. In terms of assessing the visual impact of the proposed development it is of relevance in the first instance to note that the subject site is located within the *'Corridor area west (N81)'* landscape category as detailed in Figure 4.11: *'The Landscape Category Map'* and Map 10.13(d) of the Landscape Assessment contained in the Wicklow County Development Plan, 2016. Within this area it is the policy of the Planning Authority to protect those views and prospects available from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / prospects available from any identified vantage point or that would otherwise serve to form an obtrusive or incongruous feature within that view / prospect (*N.B.* Although there are a number of protected views and prospects in the general vicinity of the proposed development site which are listed for preservation in the Development Plan, the siting of the subject proposal will not impinge on same). It is also stated that development proposals within this landscape

category should aim to locate within existing clusters of structures / tree stands thereby avoiding locations in open fields.

- 7.3.2. In a local context, the proposed development site occupies a locally elevated and exposed position within the corner of larger agricultural field which is open to view from the northwest along a relatively short section of the N81 National Road due to the absence of any intervening screening measures and the change in ground levels. However, the existing mature screening / planting along the north-eastern and south-eastern perimeter boundaries serves to screen the site in part whilst also providing a backdrop to the land when viewed from the national road (*N.B.* It would appear that whilst the site was not previously overtly visible from the national road, the removal of the roadside boundary hedgerow as part of road improvement works undertaken at the junction of the local road with the national route have served to expose the site and the surrounding area to wider view).
- 7.3.3. In relation to the actual design of the proposed dwelling house, regard should be had to the provisions of the *'Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow'* as set out in Appendix 2 of the County Development Plan. In this respect I am inclined to suggest that the submitted design is based on a contemporary interpretation of the traditional vernacular and has sought to evoke a clustering of structures reminiscent of a 'rural farmyard'. It utilises a number of features, including changes in building line and ridge height in addition to a more expansive palette of external finishes, to break the overall construction into a series of identifiable components, such as the principle cottage-style structure (incorporating a partial mezzanine / first floor level) that will provide the focal point from which the remainder of the dwelling house will extend. I would also acknowledge that the overall single storey construction proposed is in keeping with the surrounding pattern of development and that the siting of the dwelling has sought to 'cluster' the proposal with neighbouring properties (although I would advise the Board that the proposed dwelling house will not be readily visible in tandem with the adjacent properties due to the level of screening surrounding same).
- 7.3.4. Whilst I would accept that the overall site selection and positioning of the proposed dwelling house has sought to avail of the existing screening offered by the mature planting along the south-eastern and north-eastern site boundaries, in my opinion, the wider exposure of the site to views from the north / northwest along the N81

National Road is of concern given the increased elevation of the site relative to the roadway and the absence of any intervening screening measures. Moreover, although it is proposed to alleviate this visual impact by undertaking a programme of landscaping within that area of the site to the immediate northwest of the dwelling house (as detailed in the revised site plan which has accompanied the applicant's response to the grounds of appeal), I would have reservations as to the appropriateness of same given the comments of the Department of Culture, Heritage and the Gaeltacht as regards the potential for damage to unknown subsurface archaeological remains with the northern extent of the site.

- 7.3.5. On balance, although I would suggest that there may be other alternative sites / opportunities for development elsewhere on the landholding, in light of the site location outside of the more sensitive landscape designations set out in the Development Plan, the absence of any impact on protected views or prospects, the screening and backdrop provided by the mature planting along some of the perimeter site boundaries, the efforts made to 'cluster' the proposal with adjacent development, the overall quality of the submitted house design, and subject to the implementation of a suitable landscaping plan, which provides for an adequate level of screening from the N81 National Road whilst also adhering to the requirements of the Department of Culture, Heritage and the Gaeltacht as regards the protection of archaeological heritage, it is my opinion that the visual impact of the subject proposal will be within tolerable limits and will not unduly detract from the rural character of the surrounding landscape.

7.4. **Traffic Implications:**

- 7.4.1. The initial proposal submitted to the Planning Authority sought to access the proposed development directly from the adjacent public road to the immediate northeast via a new entrance arrangement located in the easternmost corner of the site which would replace an existing agricultural field gate, however, in response to a request for further information which required the applicant to demonstrate the adequacy of the sightlines available from this location, amended proposals were submitted whereby a revised site access arrangement was shown onto a different roadway to the south of the site. In this respect it would appear that although the Local Authority was generally satisfied with the initial entrance proposal, the ability to provide for adequate sight distance at this location was likely hampered by a need to

trim back the roadside boundary to the immediate southeast of the proposed entrance on lands which were outside the control of the applicant.

- 7.4.2. The amended site entrance arrangement opens onto a minor local road (L8361-35) to the south of the application site and will be positioned alongside the existing vehicular entrance serving the applicant's adjacent family home. Notably, given its siting relative to the proposed dwelling house, the new access arrangement will necessitate the provision of an elongated driveway which will extend from the new entrance onto the public road along the rear and side of the family home for a distance of c. 130m before allowing for direct access to the site itself. In this regard I note that the Planning Authority had concerns in relation to the extent and appropriateness of this access driveway and further suggested that if the entrance were to be sited as proposed then the dwelling house should be positioned closer to same. In my opinion, there is merit in the foregoing suggestion given that the revised site layout as proposed could arguably be considered to comprise backland development, notwithstanding the site frontage onto an adjacent roadway, whilst the repositioning of the proposed dwelling closer to the new site entrance would also serve to set the development further back from the N81 National Road and would minimise the likelihood of any further impacts on archaeological remains.
- 7.4.3. At this point it is of relevance to note that whilst the revised entrance arrangement will necessitate the laying of a new hardcore driveway (with an associated right of way over same) through adjacent lands within the family landholding (including farmland and the rear garden area of the applicant's family home), the site boundary has not been amended to include same. Accordingly, I would have some reservations as regards further consideration of the revised entrance proposals.
- 7.4.4. With regard to the available sight distance from the amended entrance arrangement, whilst I would concede that visibility from the proposed access is somewhat restricted, having regard to the low traffic speeds and volumes likely to be encountered along this section of minor rural roadway, I am inclined to conclude that the available sightlines are within acceptable limits and will not give rise to a traffic hazard. Furthermore, I am satisfied that the siting of the new entrance alongside the existing access serving the adjacent family home will not in itself endanger public safety by reason of traffic hazard.

7.5. **Wastewater Treatment and Disposal:**

- 7.5.1. The proposed development, as initially submitted to the Planning Authority, provided for the installation of a conventional septic tank system and percolation area within the northernmost corner of the application site to serve the proposed dwelling house, however, due to the necessity to avoid adversely impacting on those features of archaeological interest identified in the Archaeological Impact Assessment, revised proposals were subsequently submitted in response to a request for further information which included for the provision of a secondary wastewater treatment system discharging to a soil polishing filter within the eastern / north-eastern part of the site. Therefore, I would refer the Board to the updated Site Characterisation Form received by the Planning Authority on 18th August, 2017 (in addition to the supplementary information provided such as the manufacturer's specifications) which details that the trial hole encountered 300mm of topsoil overlying 600mm of SANDY subsoil with some pebbles followed by 900mm of GRAVELLY subsoil with the remainder of the excavation comprising GRAVELLY subsoil with increasing amounts of cobble to a final depth of 2.2m below ground level. Notably, no rock was encountered nor was any water ingress recorded. With regard to the percolation characteristics of the subsoil a 'T'-value of 3.19 min / 25mm and a 'P'-value of 1.58 min / 25mm were recorded.
- 7.5.2. Having reviewed the submitted Site Characterisation Form and the accompanying supporting information, it would appear that the subject site is suitable for the installation of the wastewater treatment system proposed subject to compliance with the requirements of the EPA's Code of Practice: '*Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.<10)*'. However, notwithstanding the foregoing, I would have some reservations as regards the increasing proliferation of individual wastewater treatment systems within the immediate site surrounds.

7.6. **Archaeological Implications:**

- 7.6.1. The proposed development site is partially located within the confines of Recorded Monument Ref. No. WI009-039 (flat cemetery) to the north as identified in the Archaeological Survey of Ireland records, which comprises 3 no. stone-lined cists discovered and excavated in 1980 and a further 6 No. cists (at least) discovered during the course of further groundworks carried out in 2013. In this respect an initial

submission received from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs raised concerns that there was a possibility that archaeological remains associated with the aforementioned 'flat cemetery' could be present within the proposed development area. It subsequently stated it would be preferable if the applicant were to select an alternative location for the proposed development (if possible) given the likelihood that any development within the subject site could potentially have a significant impact on the archaeological resource and set an undesirable precedent for further development within this archaeological sensitive area. However, as an alternative, the Department also recommended that an Archaeological Impact Assessment be prepared to assess the potential impact, if any, on archaeological remains in the event the development were to proceed as (initially) proposed.

7.6.2. Accordingly, in response to a request for further information, on 18th August, 2017 the applicant submitted an Archaeological Impact Assessment of the proposed development which detailed that following the completion of a geophysical survey of the site, which confirmed the presence of the edge of a possible enclosure associated with the 'flat cemetery' to the north of the site in addition to a number of associated boundaries and other features within the proposed development area, a series of 12 No. test trenches were excavated within the area of the proposed development in order to investigate the geophysical anomalies identified. This archaeological testing subsequently confirmed the presence of a number of archaeological features within the westernmost extent of the application site which included a mixture of linear remains (e.g. ditches, spreads etc.), pits and possible postholes, as well as a possible kiln and one posthole that contained fragments of slag. Therefore, given the proximity of the early medieval enclosure to the north, it has been suggested that the remains in question are also of early medieval origin. More notably, the Archaeological Impact Assessment has concluded that the early medieval settlement, now known to be located in both Blakestown Lower and Britonstown, was a significant site with the evidence from the subject investigation further indicating that the landscape outside of the enclosure (i.e. extending into the application site) was utilised for both paddocks and industrial purposes.

7.6.3. In response to the on-site archaeological investigations, the overall design and layout of the proposed development has been amended with the revised house

design repositioned further southeast within the site in order to avoid impacting on those archaeological features identified within the test trenches whilst the on-site wastewater treatment proposals have also been suitably altered. On this basis it has been submitted that the proposed development will not result in any adverse impact on the identified archaeological resources, although it has also been acknowledged that there could still be unknown archaeological features present within the footprint of the development and thus all topsoil stripping associated with the works should be monitored by an archaeologist under licence with any further mitigation, such as preservation *in situ* or by record, to be agreed with the National Monuments Service.

7.6.4. Subsequent submissions received from the Department of Culture, Heritage and the Gaeltacht have emphasised the need for the overall design and layout of the proposed development to accord with the recommendations set out in the Archaeological Impact Assessment (with regard to the revised positioning of the proposed dwelling house etc.) and have further reiterated the likelihood that archaeological remains may be present within those areas of the site not previously tested. In this respect it has also been recommended that all topsoil stripping and groundworks should be monitored under licence (with the developer to comply with the requirements of the Department of Culture, Heritage and the Gaeltacht as regards the excavation and / or preservation *in situ* of any items of archaeological interest encountered during the monitoring). Furthermore, it has been submitted that the area to the northwest of the proposed dwelling (where subsurface remains have been confirmed to survive) should be maintained as open grassland / lawn / wildflower meadow and that the treatment of same should be agreed in advance of site works with the relevant authorities whilst there should also be a prohibition on deep-rooted planting and groundworks in this area so as to ensure the continued preservation *in situ* of underground remains.

7.6.5. Having reviewed the amended proposals submitted by the applicant on 18th August, 2017 in response to the initial request for further information, it can be confirmed that the revised design and layout of the proposed development has taken due cognisance of the recommendations of the Archaeological Impact Assessment and the concerns raised by the Department of Culture, Heritage and the Gaeltacht. However, it is clear that the updated landscaping plan submitted in response to the request for clarification of further information (as received by the Planning Authority

on 11th December, 2017) is contrary to the recommendations of the Department in that it includes for extensive tree and hedgerow planting within that part of the site wherein there is a need to preserve the integrity of known subsurface remains of archaeological significance. Accordingly, in the event of a grant of permission, it will be necessary to require the submission of an amended landscaping plan, for the written approval of the Planning Authority, which provides for that area to the northwest of the proposed dwelling to be maintained as open grassland / lawn / wildflower meadow with no deep-rooted planting or groundworks. In addition, a condition should be imposed requiring the archaeological monitoring of all topsoil stripping and groundworks.

- 7.6.6. On balance, whilst I would accept that the proposed development, as amended, would appear to satisfy the recommendations of the Department and thus would not overtly impact on known aspects of archaeological heritage, subject to conditions, I would concur with the initial assessment of the Department that it would be preferable in the first instance to relocate the proposed development to an alternative site within the landholding, if possible, thereby avoiding the potential for the disturbance / damage of unrecorded subsurface archaeological remains. In this regard I would suggest that further consideration should be given to alternatives and a clear and definitive justification provided for the selection of the site (although I would acknowledge the proximity of the current site to the applicant's family home and the efforts made to 'cluster' with adjacent development).

7.7. **Appropriate Assessment:**

- 7.7.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, there are a number of Natura 2000 sites within the wider area with the closest such sites being the Poulaphouca Reservoir Special Protection Area (Site Code: 004063), approximately 500m to the northeast, and the Wicklow Mountains Special Area of Conservation (Site Code: 002122) & Special Protection Area (Site Code: 004040), approximately 6.7km to the southeast. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Wicklow County Development Plan, 2016, to avoid negative impacts upon the natural environment and to promote the appropriate enhancement of the natural environment as an

integral part of any development. Furthermore, Objective NH2 of the Plan states that no projects which would give rise to any significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects will be permitted on the basis of the plan (either individually or in combination with other plans or projects). By way of further clarity, Objective NH4 also states that all projects and plans arising from the Development Plan (including any associated improvement works or associated infrastructure) will be screened for the need to undertake Appropriate Assessment pursuant to Article 6 of the Habitats Directive whilst any such plan or project will only be authorised after the competent authority has ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment, where necessary, that:

- 1) The Plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or
- 2) The Plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type and / or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000; or
- 3) The Plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons for overriding public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and

agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000.

- 7.7.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of ‘appropriate assessment’.
- 7.7.3. Having reviewed the available information, and following consideration of the ‘source-pathway-receptor’ model, including potential hydrological connectivity, it is my opinion that given the nature and scale of the development proposed (as amended in response to the request for further information), the site location outside of any protected site, the limited ecological value of the lands in question, the absence of any pollution pathways between the application site and any Natura 2000 sites (with particular reference to the site location downstream of the Poulaphouca Reservoir Special Protection Area), and the separation distances involved between the subject site and nearby Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.
- 7.7.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the location of the site within an “Area Under Strong Urban Influence” as identified in the ‘Sustainable Rural Housing, Guidelines for Planning Authorities’ issued by the Department of the Environment, Heritage and Local Government in April 2005, in an area where new housing development will only be considered when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside in accordance with Objective HD23 of the current Wicklow County Development Plan, and on the basis of the documentation submitted with the planning application and the appeal, including the applicant’s current housing circumstances, it is considered that the applicant does not come within the scope of the housing need criteria for a dwelling at this location as set out in the ‘Sustainable Rural Housing, Guidelines for Planning Authorities’ and in the current development plan for the area. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

13th July, 2018